

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM

BILL ANALYSIS

Assembly Bill 2982

Assembly PER&SS (As amended 6/28/02)

Position:

Sponsor

Proponents:

None known

Opponents:

None known

SUMMARY

Assembly Bill 2982 is the annual California State Teachers' Retirement System (CalSTRS) technical housekeeping bill. The bill makes various grammatical, technical and conforming changes to the Teachers' Retirement Law (TRL) to facilitate efficient administration of the State Teachers' Retirement Plan (Plan), which includes the Defined Benefit (DB) Program, the Defined Benefit Supplement (DBS) Program and the Cash Balance (CB) Benefit program. Specifically, the bill:

1. Changes the definition of "creditable service" to conform to an expanded definition of "creditable compensation";
2. Clarifies that each collective bargaining agreement or employment agreement applicable to part-time community college instructors specify the number of hours of creditable service that equal "full time";
3. Makes a conforming change to a previous statutory change in the annual adjustment to DBS Program annuities;
4. Clarifies the rights of substitute teachers and part-time employees to elect membership in the DB Program;
5. Clarifies the community property rights of a nonmember spouse in the DBS Program;
6. Clarify participation in the Reduced Workload Program following reinstatement from service retirement;
7. Clarifies the eligibility for disability benefits provided under the DB Program and the DBS Program;
8. Recodifies the Partial Lump Sum provisions of the DB Program to a more appropriate section in the TRL;
9. Extends the sunset date on the earnings limitation waiver for an appointed trustee or administrator by the Superintendent of Public Instruction or a member retired for service who is assigned by a county superintendent of schools to more closely coincide to other provisions;

10. Clarifies that investment options in the CalSTRS 403(b) program may be provided through a shareholders services agreement between a third-party administrator and an investment manager and conform to existing provisions by permitting any school employee to participate in a CalSTRS 457 plan;
11. Clarifies the beneficiary designation in the DBS Program prior to retirement;
12. Clarifies final payments made in the DBS Program;
13. Authorizes the collection of overpayments made from the Medicare Premium Payment Program;
14. Clarifies the right to participate in the CB Benefit Program when working for more than one employer and;
15. Corrects grammatical errors and name changes in the TRL.

HISTORY

Chapter 800, Statutes of 2001 (SB 334—Ortiz) increases benefits for members who retire for service, reinstate, and perform creditable service for two years following reinstatement from a prior retirement.

Chapter 74, Statutes of 2000 (AB 1509—Machado) requires that 25 percent of the contributions made by members of the DB Program be credited for the next ten years to a separate nominal account in the DBS Program.

Chapter 897, Statutes of 2000 (Wright) establishes the Retirement Option Program to permit members who are 60 years of older at retirement to take a portion of their DB Program benefit in the form of a lump sum payment.

Chapter 1020, Statutes of 2000 (AB 820—Assembly PER&SS), among other provisions, allows an employee to participate in the DB Program with one employer and participate in the CB Benefit Program for different employers.

Chapter 1021, Statutes of 2000 (AB 2700—Lempert) makes all compensation for creditable service creditable to CalSTRS and credits member and employer contributions for service in excess of 1.000 years of service per school year to the DBS Program.

Chapter 1032, Statutes of 2000 (SB 1435—Johnston) requires CalSTRS to pay the Medicare Part A premium for retired members who are not eligible for Medicare Part A without payment of a premium.

Chapter 592, Statutes of 1995 (AB 1298—Ducheny) creates the CB Benefit Program for various part-time employees performing less than 50 percent of the full-time equivalent for the position.

DISCUSSION

1. Change in the definition of “creditable service” to conform to an expanded definition of “creditable compensation”

Chapter 1021 makes all compensation for creditable service creditable to CalSTRS, including compensation paid in excess of the full-time assignment. The bill makes a conforming change in the definition of creditable service with respect to after-school activities.

Education Code section affected by amendment: 22119.5

2. Clarification of full time in the collective bargaining or employment agreements

Existing law requires each employer to determine what constitutes “full-time”, equal to the number of days or hours would be required to earn a full-time salary, but subject to a minimum standard established in the TRL. That standard will differ for different types of DB Program members. CalSTRS’ experience is that full-time equivalent (FTE) reported for part-time community college instructors is often more than would be provided under a collective bargaining or employment agreement, which results in a lesser likelihood of vesting for benefits. The bill requires that each collective bargaining agreement or employment agreement affecting part-time community college instructors specifically identify the standard of full-time being applied by that employer, to make it easier for the member and CalSTRS to determine whether the FTE being reported is consistent with the law.

Education Code section affected by amendment: 22138.5

3. Conformity in annual adjustments to DBS Program annuities

When the DBS Program was initially enacted, DBS Program annuities would be increased by 2 percent annually. This provision was eliminated in 2001 to conform to the provisions of the CB Benefit Program, which otherwise had nearly identical provisions, in order to simplify program administration. (The elimination of this provision resulted in an offsetting increased initial annuity benefit, so that present value of the DBS benefit over the member’s lifetime remained the same.) This bill makes a conforming change to the 2001 provision.

Education Code section affected by amendment: 22140

4. Clarification regarding the rights of substitute teachers and part-time employees to elect membership

Current law permits substitute teachers and other part-time employees whose level of employment does not require membership in the DB Program to elect membership in the program. The law also permits a DB Program member who begins service in a classified position to elect whether that service would be covered by the DB Program or the California Public Employees' Retirement System (CalPERS). Some employers have interpreted the law to prohibit a DB Program member who changes to a classified position from electing CalPERS coverage unless the member refunds his or her DB Program contributions. The bill clarifies that such a refund is not required.

Education Code section affected by amendment: 22515

5. Clarification of the community property and receipt of retirement benefit rights of a nonmember spouse in the DBS Program

Existing law extends the provisions of the TRL to nonmember spouses who are eligible for benefits in the plan under community property laws and who are awarded a separate account for service retirement allowance. The bill makes conforming changes to provisions governing the DBS Program.

Education Code sections affected by amendment: 22657, 22664, 25009, 25011, 25022 and 25022.5

6. Clarification of participation and credited service in the Reduced Workload Program

Chapter 800 increased the benefits paid to retired DB Program members who reinstate and perform at least two years of credited service after reinstatement. Existing law also permits DB Program members who are at least age 55 and have been employed for at least 10 years, including the 5 years immediately preceding the reduced workload, to receive a full-year's service credit, subject to full payment of contributions. There can be no break in service between the completion of the five years and the beginning of the reduced workload. This bill clarifies that a member who reinstates from retirement has experienced a break in service, to further the intent of Chapter 800 to improve benefits for reinstated members who perform the equivalent of two full years of service. This bill also clarifies that the member must perform at least 10 years of credited service before the reduction in workload.

Education Code section affected by amendment: 22713

7. Clarification of disability benefits under the DB Program and DBS Program

Existing law provides for disability allowance or disability retirement benefits under the DB Program. There also are disability benefits under the DBS Program for members receiving one of the two disability benefits under the DB Program. This bill makes technical and conforming changes to disability benefits authorized under both the DB Program and the DBS Program. Major changes:

- Clarify that a member's physical or mental incapacitation for performance of service must have been continuous from the last day of actual performance of service;
- Clarify that unmodified benefits are limited to benefits for either a temporary or permanent disability or for vocational rehabilitation paid or payable under the Workers' Compensation Act, consistent with recent decisions in administrative hearings;
- Change the effective date of the Board adjustment in the earnings limitation that applies to a member retired for disability to eliminate an ambiguity in current provisions;
- Clarify the onset date of a recurrence of disability under the DBS Program.

Education Code sections affected by amendment: 24002, 24010, 24012, 24102, 24109, 24111, 24114, 25017, 25018 and 25108.5

8. Recodification of the Partial Lump Sum section to appropriate section in TRL

Chapter 897 established the Retirement Option Program to permit members to take a partial lump sum distribution of their DB Program allowance, in return for a lifetime actuarial reduction in their monthly allowance. This bill recodifies the current provisions to place the benefit's provisions in a more appropriate place in the TRL. It also specifies, consistent with the existing requirement that a partial lump sum distribution not have an actuarial impact on the DB Program, that the partial lump sum distribution cannot be used to purchase service credit or redeposit previously withdrawn contributions.

Education Code sections affected by amendment: 24209.3 and 24221

9. Conforming change to extend the earnings limit for a member who is appointed as a trustee or administrator

Existing law establishes a maximum amount of creditable earnings a retired member can earn in a school year. Existing law, until January 1, 2003, also provides exemptions from that limit to a member who is appointed as a trustee or administrator by the Superintendent of Public Instruction or a member retired for service who is assigned by a county superintendent of schools. This bill extends the sunset until January 1, 2008, which is more in line with the sunset date for other current earnings limit exemption.

Education Code section affected by amendment: 24216

10. Clarifies the third party administrator's role concerning investment options and the members affected by development of deferred compensation plans

Existing law authorizes CalSTRS to provide deferred compensation plans to school employers pursuant to the Sections 403(b) and 457 of the Internal Revenue Code. Under these programs, CalSTRS selects the investment options, but may hire a third-party to perform recordkeeping and other administrative services for the program. The 403(b) administrator may not provide investment options, in order to permit a separation of the investment option decision from the recordkeeping decision by CalSTRS. Many administrators, however, have agreements with investment managers, by which 403(b) funds can be invested in those managers' mutual funds. This bill clarifies that investment options may be provided, indirectly, by the administrator pursuant to those agreements, with CalSTRS still selecting the specific options provided to participants. In addition, although the 403(b) Program is offered to any school employee, including classified employees, the 457 program is only available to DB Program members and CB Benefit Program participants. Because 457 plans tend to be selected by employers for all of its employees, this limitation would limit the viability of a CalSTRS 457 program. This bill conforms the eligibility for participating in a CalSTRS 457 plan to the 403(b) provision, and permits any school employee to participate in such a plan if offered by the employer.

Education Code sections affected by amendment: 24950 and 24975

11. Clarify beneficiary designation in the DBS Program prior to retirement

Currently, the beneficiary designated in the DB Program generally is automatically designated as the beneficiary for annuities paid in the DBS Program. Current law also permits a DB Program member to designate a beneficiary prior to retirement in order to enhance benefits paid to survivors if the member dies before retirement. This bill clarifies that the pre-retirement designation of a beneficiary would not apply to a DBS Program annuity.

Education Code section affected by amendment: 25012

12. Clarification of final payments made in the DBS Program

Upon the death of a member, the DBS Program pays a final benefit to the member's beneficiary. This bill clarifies that the final payment includes any minimum interest credited until the date of payment. It also conforms provisions in other DBS Program provisions that require any beneficiary electing to receive a final benefit as an annuity only if there is at least \$3,500 in DBS Program benefits payable to that beneficiary. Finally, the bill clarifies the designation of a beneficiary for annuity benefits that accrued before death.

Education Code sections affected by amendment: 25020, 25021, 25022 and 25023

13. Authority to collect overpayments made from the Medicare Premium Payment Program

Under the Medicare Premium Payments (MPP) Program, CalSTRS pays the Medicare Part A (Hospitalization) premiums and Part A and Part B (Physician Services) surcharges for retired DB Program members who are not eligible for premium-free coverage. In a small number of instances, CalSTRS overpays Medicare Part A or Part B premiums and surcharges on behalf of a retired DB Program member. Current law provides no mechanism for CalSTRS to recover those overpayments, although current law does authorize CalSTRS to recover overpayments of DB Program and DBS Program benefits. The bill permits CalSTRS to collect an MPP overpayment, or any overpayment from any future health benefits program, from the member's DB Program benefit.

Education Code section affected by amendment: 25955

14. Clarification of the right to participate in the CB Benefit Program when working for more than one employer

Chapter 1020 and Chapter 803 permit certificated employees to perform service in the CB Benefit Program for one employer and the DB Program for another employer if the second employer does not offer the CB Benefit Program. The bill makes conforming changes to the law.

Education Code section affected by amendment: 26400

15. Correction of grammatical errors and name changes in the TRL

➤ The bill changes a comma to a period in references to '14.2' and removes the phrase "on account of the death of the participant or the beneficiary" because it is redundant.

Education Code sections affected by amendment: 24209.3 and 27004

➤ The bill changes the name of the Health Care Financing Administration to reflect its new name (Center for Medicare and Medicaid Services), and to automatically reflect any future change in the agency's name.

Education Code section affected by amendment: 25940

➤ The bill deletes a reference to a code section that was repealed in 1997.

Education Code section affected by amendment: 24705

Finally, this bill includes supercession language, which states that if other legislation is passed during the current legislative session that amends sections that also are included in this bill, the other legislation prevails.

FISCAL IMPACT

Benefit Program Costs – None known

Administrative Costs – Minor and absorbable

BOARD POSITION

Sponsor. This bill will make grammatical and technical amendments necessary for continued effective administration of the system. It also deletes superfluous provisions of the law.